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9 UNITED STATES BANKRUPTCY COURT
10 EASTERN DISTRICT OF CALIFORNIA
11 SACRAMENTO DIVISION

13 In re:
14 CITY OF STOCKTON, CALIFORNIA,
15 Debtor.

Case No. 2012-32118
Adv. Proc. No. 2012-02302
D.C. No.
Chapter 9

16 ASSOCIATION OF RETIRED
17 EMPLOYEES OF THE CITY OF
STOCKTON, a nonprofit California
18 corporation, SHELLEY GREEN,
PATRICIA HERNANDEZ, REED
19 HOGAN, GLENN E. MATTHEWS,
PATRICK L. SAMSELL, ALFRED J.
20 SIEBEL, BRENDA JO TUBBS, TERRI
WILLIAMS, on Behalf of Themselves
21 and Others Similarly Situated,

**CITY OF STOCKTON'S LIMITED
RESPONSE TO THE TIMING OF THE
HEARING ON THE NOTICE OF
MOTION AND MOTION IN SUPPORT
OF APPLICATION FOR TEMPORARY
RESTRAINING ORDER**

Proposed Hearing Time And Date

Date: July 12, 2012
Time: 1:30 p.m.
Dept: C
Judge: Hon. Christopher M. Klein

22 Plaintiffs,
23 v.
24 CITY OF STOCKTON, CALIFORNIA,
25 Defendant.

1 Without requesting an order shortening time¹ or confirming a hearing date and time, the
2 plaintiffs in this adversary proceeding are attempting to haul the City into court on just hours'
3 notice to obtain extraordinary relief: an order that would inject this Court into the City's
4 legislative decision-making by unraveling the adopted budget for this fiscal year. The court
5 should deny the request for temporary restraining order and simply set the matter as (at most) as a
6 hearing on a preliminary injunction. In the alternative, the Court should set the hearing on the
7 temporary restraining order for a date no earlier than the middle of next week.

8 By the plaintiffs' own admission, the change in their medical benefits will not take effect
9 until the end of the month. Moreover, the plaintiffs were aware of the fiscal year 2012-13
10 budget's retiree medical provisions since at least June 20, when the City published the staff report
11 prior to the June 26 City Council meeting during which the Council adopted the fiscal 2012-13
12 budget. Rather than seek appropriate relief during those three weeks, plaintiffs chose to ambush
13 the City by filing hundreds of pages of documents—including a request for judicial notice and 33
14 declarations— after 6:00 p.m. Tuesday and requesting a hearing at 1:30 p.m. on Thursday.

15 Neither City staff nor counsel for the City have had time to digest the numerous pleadings,
16 confer with one another, or formulate a substantive response to the pleadings. The remedy the
17 plaintiffs seek implicates novel and critical issues, including whether the Court has jurisdiction
18 under 11 U.S.C. § 904 to rewrite the City's budget and why one group of creditors is justified in
19 making an end run around the other creditors in violation of the Bankruptcy Code's general
20 principle of equality of distribution. Even if the Court decides that this matter should be heard on
21 shortened time, the City submits that all of the City's constituencies will benefit greatly by the
22 Court providing the City an adequate opportunity to respond in writing and to address such
23 critical issues as the Court's jurisdiction.

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27 _____
28 ¹ Plaintiffs did not file a request for an order shortening time, as contemplated by Local Rule 9014(f)(3). It is unclear whether the provisions of Rule 9014(f)(3) trump the provisions of Local Rule 7065, which applies to temporary restraining orders and preliminary injunctions.

